

(2) If the contracting officer rejects the SDB counter-recommendation, he/she shall return the original and duplicate forms with his/her written reasons for rejection to SDB within two working days.

(3) Upon receipt of the contracting officer's rejection, SDB may: (i) accept, or (ii) appeal, the rejection. In the case of acceptance of the contracting officer's rejection, SDB shall annotate Block 14 when it renders a decision and return the original form to the contracting officer within two working days.

(e) *Appeal procedure.* (1) When informal efforts fail to resolve the set-aside disagreement between the contracting officer and SDB, the latter official may appeal the contracting officer's decision to the head of the contracting activity. Such an appeal will be made within five working days after receipt of the contracting officer's rejection.

(2) In the case of an appeal, SDB will send the original and duplicate form, with the appeal noted in Block 14, directly to the head of the contracting activity with its written reasons for appealing. The contracting officer will be notified of SDB's appeal by means of a copy of the written reasons for appealing.

(3) The head of the contracting activity shall render a decision on the appeal (complete Block 15) within three working days after receipt of same and return the original to SDB and the duplicate to the contracting officer.

[49 FR 13243, Apr. 3, 1984, as amended at 52 FR 21058, June 4, 1987; 61 FR 39092, July 26, 1996; 62 FR 40468, July 29, 1997; 64 FR 42042, Aug. 3, 1999]

**719.271-7 Reports on procurement actions that are exempted from screening.**

(a) *Unilateral and class set-asides.* The contracting officer shall prepare Form USAID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB. The original will be filed in the contract file.

(1) If, upon review of the material submitted under 719.271-7(a) above, SDB concludes that it would be practicable to accomplish all or a portion of the procurement involved under sec-

tion 8(a) subcontracting, it shall so advise the contracting officer in writing within five days after receipt of such material.

(2) Such advice shall be considered a counter-recommendation and shall be processed in accordance with 719.271-6 (d) and (e).

(b) *Public exigency exemption.* The contracting officer shall prepare Form USAID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB. In addition to the documentation called for in 719.271-6, the contracting officer shall furnish a copy of his/her written determination exempting the procurement from screening. The determination shall cite the pertinent facts which led to his/her decision. This exemption is not intended to be used as substitute for good procurement planning and lead-time; SDB will report abuses of this exemption to the head of the contracting activity for appropriate action in accordance with 719.271-4(c).

(c) *Institution building contract (IBC) exemption.* The contracting officer shall prepare Form USAID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB.

(d) *Personal services contract exemption.* Preparation of Form USAID 1410-14 is not required for personal services contracts.

**719.272 Small disadvantaged business policies.**

In addition to the requirements in FAR part 19, part 726 provides for contracting and subcontracting with small disadvantaged businesses and other disadvantaged enterprises based on provisions of the foreign assistance appropriations acts.

[58 FR 8702, Feb. 17, 1993]

**PART 722—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION**

**Subpart 722.1—Basic Labor Policies**

Sec.

722.103 Overtime.

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722.103-4 Approvals.

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### Subpart 722.8—Equal Employment Opportunity

722.805-70 Procedures.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

SOURCE: 49 FR 13246, Apr. 3, 1984, unless otherwise noted.

### Subpart 722.1—Basic Labor Policies

**722.103 Overtime.**

**722.103-1 Definitions.**

*Compensatory time off* means leave equal to overtime worked, which, unless otherwise authorized in a contract or approved by a contracting officer, must be taken not later than the end of the calendar month following that in which the overtime is worked.

**722.103-2 Policy.**

(a) Most contracts covered by this regulation call for the performance of professional or technical services overseas on a cost-reimbursement basis. The compensation for employees performing such services is normally fixed on a monthly or annual basis, and the contracts usually state minimum work week hours. It is not expected that these employees will receive additional pay, overtime or shift premiums, or compensatory time off.

(b) When the contracting officer determines it is in the best interests of the Government, specific provision may be made in contracts to permit such benefits for non-technical and non-professional employees serving overseas, subject to approvals to be required in the contract.

[49 FR 13246, Apr. 3, 1984. Redesignated at 61 FR 39092, July 26, 1996]

**722.103-3 [Reserved]**

**722.103-4 Approvals.**

The contracting officer may make the determinations referred to in FAR 22.103-4.

[49 FR 13246, Apr. 3, 1984. Redesignated at 61 FR 39092, July 26, 1996]

**722.170 Employment of third country nationals (TCN's) and cooperating country nationals (CCN's).**

(a) *General.* It is USAID policy that cooperating country nationals (CCN's) and third country nationals (TCN's), who are hired abroad for work in a cooperating country under USAID-direct contracts, generally be extended the same benefits, and be subject to the same restrictions as TCN's and CCN's employed as direct hires by the USAID Mission. Exceptions to this policy may be granted either by the Mission Director or the Assistant Administrator having program responsibility for the project. (TCN's and CCN's who are hired to work in the United States shall be extended benefits and subject to restrictions on the same basis as U.S. citizens who work in the United States.)

(b) *Compensation.* Compensation, including merit or promotion increases paid to TCN's and CCN's may not, without the approval of the Mission Director or the Assistant Administrator having program responsibility for the project, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country as determined by the USAID Mission. Unless otherwise authorized by the Mission Director or the Assistant Administrator having program responsibility for the project, the compensation of such TCN and CCN employees shall be paid in the currency of the cooperating country.

(c) *Allowances and differentials.* TCN's and CCN's, hired abroad for work in a cooperating country, are not eligible for allowances or differentials under USAID-direct contracts, unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(d) *Country and security clearances.* The contractor shall insure that the